

19/91:20-7

Armstrong Cork Co.

Kaminstein

No. 11

3. This action arises under the Copyright Laws of the United States (Title 17, United States Code), and this court has jurisdiction of this action under and by virtue of Section 10 of the Administrative Procedure Act, Title 5 U. S. C. § 1009, and the Judicial Code, Title 28, United States Code §§ 1338 (a), 1361, 1391 (e), 1400 (a), 2201 and 2202.

4. In 1960, Arthur E. Kern, an employee in the Styling Center of Armstrong Cork Company and a holder of a Master of Fine Arts degree, created a design for a work of art to be embodied in a resilient flooring which was designated "MONTINA", and by reason of said employment of Arthur E. Kern, Plaintiff became the proprietor of all right, title and interest in said design for a work of art.

5. On December 6, 1961, Plaintiff first placed on sale, sold and publicly distributed resilient flooring embodying said "MONTINA" design. Said resilient flooring was marked on said date, and all said resilient flooring sold or distributed by Plaintiff since said date has been marked, with a notice of copyright as follows:

© Armstrong Cork Company

6. On September 14, 1962, Plaintiff mailed to the Copyright Office, Library of Congress, Washington, D. C., copies of resilient flooring with said "MONTINA" design, with the fees prescribed by statute, and with a request on a form G application that the design be registered as a design for a work of art.

7. Defendant has refused to register Plaintiff's claim of copyright in said design for a work of art.

8. Plaintiff avers that it has fully complied with all the provisions of the Copyright Act relating to the registration of its claim to copyright in said design for a work of art, and that it is legally entitled to have its claim to copy-

right registered in the Copyright Office; and that the action of the Defendant in refusing to register said copyright has been contrary to law.

WHEREFORE Plaintiff prays for:

1. A declaratory judgment that the "MONTINA" design is a design for a work of art under 17 U. S. Code, Section 5 (g), and is entitled to be registered as such in the Copyright Office;

2. A declaratory judgment that Plaintiff is entitled to the registration of said "MONTINA" design;

3. An order directing Defendant to grant such registration;

4. Such other relief as may appear equitable and just.

William A. Smith Jr.

William A. Smith, Jr.
Woodward Building
15th & H Streets, N. W.
Washington 5, D. C.

Of Counsel:

Howson & Howson
123 S. Broad Street
Philadelphia, Pa.

By Dexter N. Shaw, Esq.
Charles M. Allen, Esq.

William G. Taylor, Esq.
Armstrong Cork Company
Lancaster, Pa.

United States District Court

FOR THE
DISTRICT OF COLUMBIA

119-64

CIVIL ACTION FILE NO.

ARMSTRONG CORK COMPANY

Plaintiff

v.

ABRAHAM L. KAMINSTEIN
Register of Copyrights

Defendant

SUMMONS

RECEIVED
JAN 16 1 31 PM '64
U.S. MARSHAL

LIBRARY
OF CONGRESS

DA
A.H.

To the above named Defendant :

You are hereby summoned and required to serve upon William A. Smith, Jr.

plaintiff's attorney , whose address Woodward Building, Washington 5, D. C.

60

an answer to the complaint which is herewith served upon you, within ~~20XX~~ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

HARRY M. HULL

Clerk of Court.

Annie G. Shuman
Deputy Clerk.

Date: January 16, 1964

[Seal of Court]

Note.—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

RETURN ON SERVICE OF WRIT

I hereby certify and return, that on the _____ day of _____, 19____, I received this summons and served it together with the complaint herein as follows:

MARSHAL'S FEES _____
Travel _____ \$ _____
Service _____
By _____
United States Marshal.
Deputy United States Marshal.

Subscribed and sworn to before me, a _____ this _____ day of _____, 19____.
[SEAL] _____

Note.—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.

No. _____	United States District Court FOR THE _____	v.	SUMMONS IN CIVIL ACTION	Returnable not later than _____ days after service.	Attorney for Plaintiff. FPI-LK-2-23-62-120M-416
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C.A. 119-64

RETURN ON SERVICE OF WRIT

United States of America,
Washington DISTRICT OF Columbia } ss:

Armstrong Cork Co
vs
Kamunstein

I hereby certify and return that I served the annexed Summons & Complaint
on the therein-named U.S. Attorney for The District of
Columbia, David C. Ackerson
(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with Lillian Love
authorized to accept service for the U.S.
Attorney
(Individual or agent of company, corporation, etc.)

personally at U.S. Court House
(Address—Street number, apartment number,

rural route, etc.)

at _____ in the said District
(City) (State)
at 9 a. m.—p. m., on the 17th day of Jan., 1964

LUKE C. MOORE

Marshal's fees _____

United States Marshal.

Mileage _____

By Howard F. Jacques
Deputy.

U.S. GOVERNMENT PRINTING OFFICE: 1963—O-673716



POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

9A-119-64
PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, \$300



U.S. CUSTOMS
175TH ANNIVERSARY
1789 - 1964

INSTRUCTIONS: Fill in items below and complete instructions on other side, if applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article RETURN RECEIPT REQUESTED.

RETURN
TO

REGISTERED NO.

NAME OF SENDER LUKE C. MOORE

U. S. Marshal in and for the District of Columbia

CERTIFIED NO.

STREET AND NO. OR P. O. BOX

INSURED NO.

CITY, ZONE AND STATE

C55-16-71548-5-F

POD Form 3811 Apr. 1962

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Deliver *ONLY* to
addressee

☐ Show address where
delivered

(Additional charges required for these services)

RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE *(must always be filled in)*

Attorney General

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

George H. Vento

DATE DELIVERED

SHOW WHERE DELIVERED *(only if requested)*

1/27/64

CA-119-64

RETURN ON SERVICE OF WRIT

United States of America,

ss:

DISTRICT OF

I hereby certify and return that I served the annexed

SUMMONS AND COMPLAINT

on the therein-named

Attorney General (Wife)
(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with

him by certified mail
(Individual or agent of company, corporation, etc.)

personally at

Dept. of Justice
(Address—Street number, apartment number,
rural route, etc.)

at

(City)

(State)

in the said District

at

a. m.—p. m., on the

27

day of

Jan.

, 19

64

Marshal's fees

Mileage

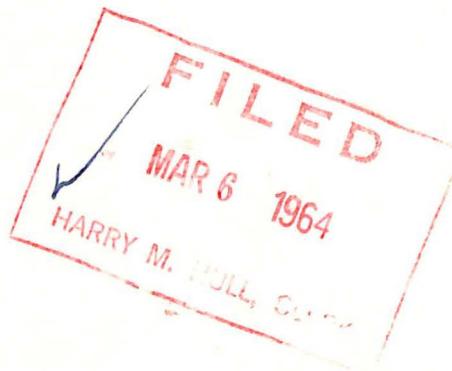
By

A. Gregory

Deputy.

LUKE C. MOORE

United States Marshal.



RETURN ON SERVICE OF WRIT

United States of America,

DISTRICT OF Columbia

ss:

I hereby certify and return that I served the annexed Summons + Complaint
on the therein-named Abraham L. Kamenstein Registered of Copyrights
(Individual, company, corporation, etc.)

by handing to and leaving a true and correct copy thereof with Him

(Individual or agent of company, corporation, etc.)

personally at Library of Congress
(Address—Street number, apartment number,
rural route, etc.)

at _____ in the said District
(City) (State)
at 125 a.m.—p. m., on the 23 day of January, 1964

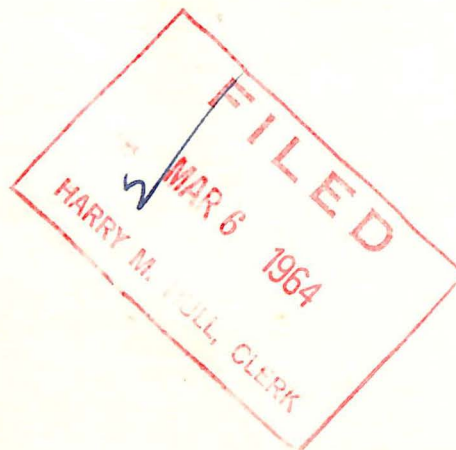
Marshal's fees _____

Mileage _____

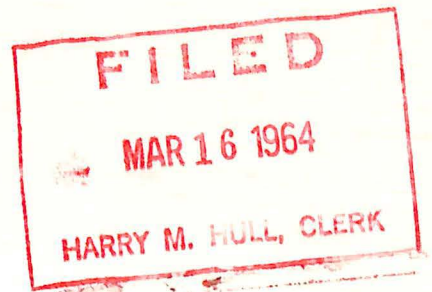
United States Marshal.

By [Signature] Deputy.

U.S. GOVERNMENT PRINTING OFFICE: 1963—O-673716



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA



ARMSTRONG CORK COMPANY

Plaintiff

v.

ABRAHAM L. KAMINSTEIN
Register of Copyrights
Library of Congress

Defendant

Civil Action No. 119-64

ANSWER TO COMPLAINT FOR DECLARATORY JUDGMENT

AND ORDER

Comes now the defendant by and through his attorney,
the United States Attorney, and in answer to the complaint
avers as follows:

First Defense

The complaint fails to state a claim upon which relief
can be granted.

Second Defense

Answering specifically the numbered paragraphs of the
complaint, defendant avers as follows:

1. Defendant is without knowledge or information
sufficient to form a belief and therefore denies each and
every allegation of Paragraph 1.

2. Defendant admits that he is the Register of Copy-
rights of the United States and that his office is in the
Library of Congress, in the City of Washington, District of
Columbia, as stated in Paragraph 2; but denies that plaintiff
has a cause of action against the defendant.

3. Defendant denies the allegations concerning juris-
diction in Paragraph 3, and further denies that plaintiff has
a cause of action against the defendant.

4. Defendant is without knowledge or information sufficient to form a belief and therefore denies each and every allegation of Paragraph 4, except that defendant further denies that the flooring "Montina" here in issue embodies a design created by Arthur E. Kern or any design for a work of art, and further denies that there can be "a proprietor," within the meaning of the Copyright Law, of the flooring here in issue.

5. Defendant is without knowledge or information sufficient to form a belief and therefore denies each and every allegation of Paragraph 5, except that defendant further denies that the pieces of flooring submitted to the Copyright Office for registration embodied a copyrightable design for a work of art or any other copyrightable subject matter, and defendant further denies that any sale or distribution of the flooring here in issue could have been a sale or distribution of copyrightable material.

6. Defendant admits that on September 17, 1962, the Copyright Office received two pieces of flooring, with a fee of \$4.00, and with a "Form G Application For Registration Of A Claim To Copyright In A Work Of Art Or A Model Or Design For A Work Of Art," and that this application requested registration of a copyright claim in an asserted "Design" entitled "Montina;" but defendant denies that the said two pieces of flooring, or either of them, constituted or embodied a copyrightable design for a work of art or any other copyrightable subject matter, and defendant avers that the said two pieces of flooring were materially different from one another. Defendant denies all remaining allegations in Paragraph 6.

7. Defendant admits that he has refused to register the plaintiff's claim of copyright, but denies that the pieces of flooring deposited with the application for registration

constituted or embodied a copyrightable design for a work of art or any other copyrightable subject matter.

8. Defendant denies each and every allegation of Paragraph 8.

Third Defense

Defendant asserts that the pieces of flooring deposited with the application for registration of the alleged design do not constitute or embody a "design for a work of art" or any other copyrightable matter under Section 5 of the Copyright Act (Title 17, United States Code), and that it is not entitled to registration by the Register of Copyrights under the Copyright Laws of the United States.

Fourth Defense

Defendant asserts that the alleged design in the pieces of flooring deposited with the application for registration is not a "writing" of an "author," and therefore does not represent matter properly copyrightable, under Article I, Section 8 of the Constitution or under Section 4 of the Copyright Act (Title 17, United States Code).

Fifth Defense

Defendant asserts that there is no single design in the pieces of flooring deposited with the application for registration, but that the wearing surfaces of each of said pieces represent any number and variety of unrepeated elements. Defendant further asserts, on information and belief, that the wearing surfaces of each of said pieces of flooring are not the product of authorship, but are the haphazard random result of a mechanical process which could not have produced any single specific design.

Sixth Defense

Defendant further asserts that there is no single design in the flooring here in issue, but that the wearing surface of the flooring embodying the alleged design is formed of individual elements of different irregular shapes and sizes, no two of which are the same, these elements being arranged at random by a mechanical process in which their specific arrangement is not controlled, so that the result does not represent any individual or repeated design and, therefore, the flooring embodying said surface does not constitute copyrightable subject matter under the copyright laws.

Seventh Defense

Defendant further asserts that the flooring in issue does not constitute the writing of an author since it embodies an uncontrolled arrangement of elements positioned mechanically in a haphazard manner to form a wearing surface having no repetitive design; and defendant further asserts that such flooring does not permit the filing of two identical copies as required by the copyright laws.

Eighth Defense

Defendant asserts that the two pieces of flooring deposited with the application for registration were not such "copies" of a copyrightable work as are required, by Sections 11 and 13 of the Copyright Act, to be deposited in order to obtain registration. Defendant further asserts that if either one of the said two pieces of flooring had been such a "copy" of a copyrightable work (which defendant denies), the other piece of flooring was so materially different that it could not also have been such a "copy" of the same work under the requirement of Sections 11 and 13 of the Copyright Act that two copies of the work be deposited for registration.

Ninth Defense

Defendant asserts that the two pieces of flooring deposited with the application for registration did not embody, or constitute copies of, any design or other "writing" of an "author" that is susceptible of protection under the Copyright Law or that qualifies for the registration of a claim to copyright.

WHEREFORE, defendant, having fully answered, demands judgment together with the costs of this suit.



David C. Acheson
DAVID C. ACHESON
United States Attorney

Charles T. Duncan
CHARLES T. DUNCAN
Principal Assistant United States Attorney

Joseph M. Hannon
JOSEPH M. HANNON
Assistant United States Attorney

Ellen Lee Park
ELLEN LEE PARK
Assistant United States Attorney

H. L. Godfrey
H. L. GODFREY
Attorney, Department of Justice

CERTIFICATE OF SERVICE

Copy of the foregoing Answer to Complaint for Declaratory Judgment and Order was served on William A. Smith, Jr., Esq., attorney for the plaintiff, by mailing the same to him, postage prepaid, at his address: Woodward Building, 15th & H Streets, N.W., Washington, D. C. 20005, this 16th day of March, 1964.

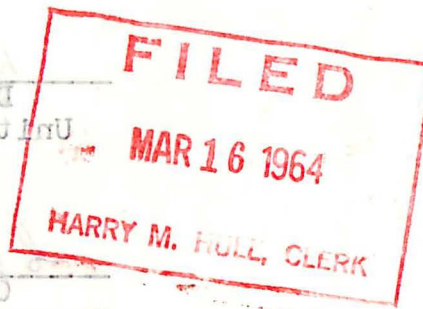
Ellen Lee Park
ELLEN LEE PARK
Assistant United States Attorney

Ninth Defense

Defendant asserts that the two pieces of flooring deposited with the application for registration did not embody, or constitute copies of, any design or other "writing" of an "author" that is susceptible of protection under the Copyright Law or that qualifies for the registration of a claim to copyright.

WHEREFORE, defendant, having fully answered, demands judgment together with the costs of this suit.

DAVID C. ACHESON
United States Attorney



CHARLES T. DUNCAN
Principal Assistant United States Attorney

JOSEPH M. HANNON
Assistant United States Attorney

ELLEN LEE PARK
Assistant United States Attorney

H. L. GODFREY
Attorney, Department of Justice

CERTIFICATE OF SERVICE

Copy of the foregoing Answer to Complaint for Declaratory Judgment and Order was served on William A. Smith, Jr., Esq., attorney for the plaintiff, by mailing the same to him, postage prepaid, at his address: Woodward Building, 15th & H Streets, N.W., Washington, D. C. 20005, this 14th day of March, 1964.

ELLEN LEE PARK
Assistant United States Attorney

Civil No. 119-64

ARMSTRONG CORK COMPANY

Plaintiff,

vs.

ABRAHAM L. KAMINSTEIN

Defendant.

5005

CAUSE CALENDARED

Mar. 16, 1964

Attorney for plaintiff:

William A. Smith, Jr.

Woodward Bldg.

Attorney for defendant:

David C. Acheson, Charles T.
Duncan, Joseph M. Hannon and
Ellen Lee Park

U.S. Courthouse

H.L. Godfrey

Dept. of Justice

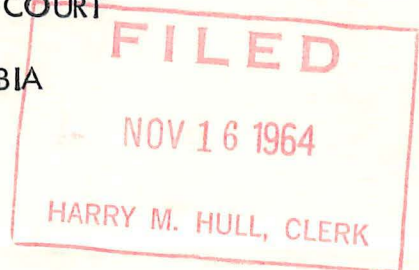
The suit is for DECLARATORY

JUDGMENT AND ORDER

(W)

Harry M. Hull, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA



ARMSTRONG CORK COMPANY,

Plaintiff,

v.

ABRAHAM L. KAMINSTEIN,
Register of Copyrights,
Library of Congress,

Defendant.

Civil Action No. 119-64

DEFENDANT'S INTERROGATORIES TO PLAINTIFF

NOW COMES THE DEFENDANT, ABRAHAM L. KAMINSTEIN, under and in accord with the provisions of Rule 33, Federal Rules of Civil Procedure, and serves upon the party plaintiff, Armstrong Cork Company, the following written interrogatories, to be answered by an officer or agent of the said party plaintiff, said interrogatories to be answered separately and fully under oath and in writing, and signed by the person making the answers.

These interrogatories are submitted for the purpose of discovery and are not to be taken as waiving any objections which may be made at the trial to the introduction of evidence by the plaintiff on subjects covered by these interrogatories or as an admission of the relevance or materiality of any of the matters covered by the said interrogatories.

1(a) State whether the alleged "design" which is said in paragraph 5 of the complaint to be embodied in the flooring "Montina" here in issue, hereinafter referred to as the flooring, is precisely the same in its lines, shapes and contours as the alleged "design" which is said in paragraph 4 of the complaint to have been created by Arthur E. Kern.

(b) If you will do so without a motion to produce, please specify when defendant can inspect and photograph the alleged "design," which is said in paragraph 4 of the complaint to have been created by Arthur E. Kern.

2(a) Describe in detail, step by step, the process by which the alleged "design," which is said in paragraph 4 of the complaint to have been created by Arthur E. Kern, is embodied in the flooring.

(b) State whether, in this process,

(1) the lines, shapes and contours of the alleged "design" are fixed in any device by means of which they are reproduced precisely in the flooring;

(2) the identical lines, shapes and contours of the alleged "design" are repeated precisely in successive pieces or segments of the flooring.

3(a) State the linear dimensions of a segment of flooring embodying a single reproduction of a complete alleged "design".

(b) State whether any two segments of the flooring of those dimensions are identical in both segments as to their lines, shapes and contours.

(c) Please explain your answer to 3(b) in detail.

(d) If the answer to 3(b) is in the affirmative and if you will do so without a motion to produce, attach to the answer to these interrogatories two segments of the flooring which you allege to be identical in their lines, shapes and contours.

4(a) Is the flooring manufactured in different colors?

(b) If the answer to 4(a) is in the affirmative, please identify the different colors in which the flooring is manufactured.

(c) If you will do so without a motion to produce, attach to the answer to

these interrogatories a segment of flooring for each color and identify the color.

5(a) Identify all manufacturing instructions, manuals, specifications and drawings which are used in the production of the flooring.

(b) If you will do so without a motion to produce, attach to your answers to these interrogatories a copy of each of said documents.

6. List the name, present position within the company, and address of those who would know most about how the flooring is manufactured.

7. List the number, date of issue, title, and name of the inventor of every patent ever granted, assigned or licensed to the plaintiff disclosing or illustrating the flooring.

8(a) List the serial number, filing date, title, and name of the inventor of every application for a design patent on the flooring, which is now pending or has been abandoned, and indicate its present status.

(b) If you will do so without a motion to produce, attach to your answers to these interrogatories a copy of each such application.

9. List the number, date of issue, title, and name of the inventor of every patent granted, assigned or licensed to the plaintiff for the design of any flooring.

10. List the number, date of issue, title, and name of the inventor of every patent ever granted, assigned or licensed to the plaintiff disclosing or illustrating any machine or process used in the manufacture of the flooring.

11. Name each machine used in the manufacture of the flooring which contains a patent notice thereon, and list for each such machine the number of the patent(s) and the name and address of the manufacturer.

12(a) Identify fully any patent notice set forth on the flooring or on the package or wrapping which contains said flooring.

(b) If you will do so without a motion to produce, attach to your answers to these interrogatories a sample illustrating how the flooring or package or wrapping therefor is marked with respect to patent notice.

13. What relation has United States patent No. 3,056,224 to the flooring?

Dated: Nov. 16, 1964

David C. Acheson
DAVID C. ACHESON
United States Attorney

Charles T. Duncan
CHARLES T. DUNCAN
Principal Assistant United States Attorney

Joseph M. Hannon
JOSEPH M. HANNON
Assistant United States Attorney

Ellen Lee Park
ELLEN LEE PARK
Assistant United States Attorney

George P. Hoare
GEORGE P. HOARE
Attorney, Department of Justice

CERTIFICATE OF SERVICE

Two (2) copies of the foregoing Defendant's Interrogatories to Plaintiff were served on William A. Smith, Jr., Esq., attorney for the plaintiff, by mailing the same to him, postage prepaid, at his address: Woodward Building, 15th & H Streets, N.W., Washington, D.C. 20005, this 16 day of November, 1964.

Ellen Lee Park
ELLEN LEE PARK
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ARMSTRONG CORK COMPANY, :
 :
Plaintiff, :
 :
v. :
 :
ABRAHAM L. KAMINSTEIN, :
Register of Copyrights :
Library of Congress, :
 :
Defendant. :

Civil Action No. 119-64

FILED

APR 2 1965

HARRY M. HULL, Clerk

PLAINTIFF'S ANSWERS TO DEFENDANT'S INTERROGATORIES

Now comes the Plaintiff, Armstrong Cork Company, and for its answers to Defendant's Interrogatories states as follows:

Interrogatory 1(a):

State whether the alleged "design", which is said in paragraph 5 of the complaint to be embodied in the flooring "Montina" here in issue, hereinafter referred to as the flooring, is precisely the same in its lines, shapes and contours as the alleged "design", which is said in paragraph 4 of the complaint to have been created by Arthur E. Kern.

Answer:

The design stated in paragraph 5 of the complaint to be embodied in the "Montina" flooring is precisely the same in expression, continuous over-all image and aesthetic effect in its lines, shapes and contours as the design created by Arthur E. Kern, but if by the use of the words "precisely the same", the Interrogatory intended to inquire whether the design embodied in the "Montina" flooring is a duplication throughout in its linear delineation, that is, in its lines, shapes and contours, then the answer is "No".

Interrogatory 1(b):

If you will do so without a motion to produce, please specify when defendant can inspect and photograph the alleged "design", which is said in paragraph 4 of the complaint to have been created by Arthur E. Kern.

Answer:

The original embodiment of the design created by Arthur E. Kern has not, after a thorough search, been located. However, prototypes of original embodiments of the design of the "Montina" flooring are available and Defendant can inspect and photograph the same at its convenience during ordinary business hours at Armstrong Cork Company, Lancaster, Pa.

Interrogatory 2(a):

Describe in detail, step by step, the process by which the alleged "design", which is said in paragraph 4 of the complaint to have been created by Arthur E. Kern, is embodied in the flooring.

Answer:

By agreement of counsel, no answer need be made to this Interrogatory at this time.

Interrogatory 2(b)(1):

State whether, in this process,

- (1) the lines, shapes and contours of the alleged "design" are fixed in any device by means of which they are reproduced precisely in the flooring.

Answer:

By agreement of counsel, no answer need be made to this Interrogatory at this time.

Interrogatory 2(b)(2):

State whether, in this process,

- (2) the identical lines, shapes and contours of the alleged "design" are repeated precisely in successive pieces or segments of the flooring.

Answer:

By agreement of counsel, no answer need be made to this Interrogatory at this time.

Interrogatory 3(a), (b) and (c):

(a) State the linear dimensions of a segment of flooring embodying a single reproduction of a complete alleged "design".

(b) State whether any two segments of the flooring of those dimensions are identical in both segments as to their lines, shapes and contours.

(c) Please explain your answer to 3(b) in detail.

Answer:

The flooring embodying the "Montina" design is made in a continuous manner and is cut into segments for sale: Where there is one piece in the roll, the goods are 6 feet in width and between 45 and 90 feet in length, and where there are two pieces in a roll, each is 6 feet in width and between 22 feet 6 inches and 44 feet in length and such segments embody a single reproduction of the design with lines, shapes and contours the same in expression, continuous over-all image and aesthetic effect, but if by the use of the words "single reproduction" and "identical" the Interrogatories intended to inquire whether the design embodied in the "Montina" flooring is a duplication throughout in its linear delineation, that is, in its lines, shapes and contours, then the answer is "No", since duplication in linear delineation throughout the "Montina" flooring would not as faithfully reproduce the artist's expression.

Interrogatory 3(d):

If the answer to 3(b) is in the affirmative and if you will do so without a motion to produce, attach to the answer to these Interrogatories two segments of the flooring which you allege to be identical in their lines, shapes and contours.

Answer:

Plaintiff will provide Defendant with such samples of "Montina" flooring as Defendant may request.

Interrogatory 4(a):

Is the flooring manufactured in different colors?

Answer:

Yes.

Interrogatory 4(b):

If the answer to 4(a) is in the affirmative, please identify the different colors in which the flooring is manufactured.

Answer:

The different colors in which the "Montina" flooring is manufactured cannot be identified by specific color designations but are identifiable by the color pattern numbers 86700 through 86716.

Interrogatory 4(c):

If you will do so without a motion to produce, attach to the answer to these Interrogatories a segment of flooring for each color and identify the color.

Answer:

Two sets of samples of each of the color pattern numbers have been delivered by Plaintiff's counsel to Defendant's counsel, George P. Hoare, Esq.

Interrogatory 5(a) and (b):

(a) Identify all manufacturing instructions, manuals, specifications and drawings which are used in the production of the flooring.

(b) If you will do so without a motion to produce, attach to your answers to these Interrogatories a copy of each of said documents.

Answer:

By agreement of counsel, no answer need be made to this Interrogatory at this time.

Interrogatory 6:

List the name, present position within the company, and address of those who would know most about how the flooring is manufactured.

Answer:

<u>Name</u>	<u>Present Position</u>
F. A. Spracher	Production Superintendent, Linoleum and Plastics Production
M. M. Mengel	General Foreman, Linoleum and Plastics Production
J. W. deGroot	Chief Chemist, Linoleum and Plastics Production
P. L. Herman	Chief Inspector
L. E. Bish	Manager, Linoleum and Plastics Production
W. P. Bishop	General Foreman, Molded Plastics Department

The address of the above is c/o Lancaster Floor Plant,
Armstrong Cork Company, Lancaster, Pennsylvania.

Interrogatory 7:

List the number, date of issue, title, and name of the inventor of every patent ever granted, assigned or licensed to the Plaintiff disclosing or illustrating the flooring.

Answer:

By agreement of counsel, no answer need be made to this Interrogatory at this time.

Interrogatory 8(a) and (b):

(a) List the serial number, filing date, title, and name of the inventor of every application for a design patent on the flooring, which is now pending or has been abandoned, and indicate its present status.

Answer:

None.

(b) If you will do so without a motion to produce, attach to your answers to these Interrogatories a copy of each such application.

Answer:

No answer required.

Interrogatory 9:

List the number, date of issue, title, and name of the inventor of every patent granted, assigned or licensed to the Plaintiff for the design of any flooring.

Answer:

A list of the design patents inquired about is attached hereto and entitled "Armstrong Cork Company Floor Covering Design Patents".

Interrogatory 10:

List the number, date of issue, title, and name of the inventor of every patent ever granted, assigned or licensed to the Plaintiff disclosing or illustrating any machine or process used in the manufacture of the flooring.

Answer:

By agreement of counsel, no answer need be made to this Interrogatory at this time.

Interrogatory 11:

Name each machine used in the manufacture of the flooring which contains a patent notice thereon, and list for each such machine the number of the patent(s) and the name and address of the manufacturer.

Answer:

This Interrogatory has been withdrawn by Defendant.

Interrogatory 12(a) and (b):

(a) Identify fully any patent notice set forth on the flooring or on the package or wrapping which contains said flooring.

Answer:

Almy et al Patent No. 3,056,224 is set forth on the labels attached to the wrapper for the flooring.

(b) If you will do so without a motion to produce, attach to your answers to these Interrogatories a sample illustrating how the flooring or package or wrapping therefor is marked with respect to patent notice.

Answer:

A sample of said label is attached hereto.

Interrogatory 13:

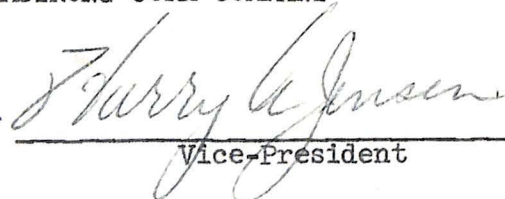
What relation has United States Patent No. 3,056,224 to the flooring?

Answer:

That patent describes certain features of the product, process or equipment used in the manufacture of the "Montina" flooring.

ARMSTRONG CORK COMPANY

By


Vice-President

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF LANCASTER :

Harry A. Jensen, being duly sworn upon his oath, deposes and says:

I am Vice-President of the Plaintiff in the above-entitled action and have read the Interrogatories served upon Plaintiff by Defendant and the foregoing answers to the said Interrogatories are true according to the best of my knowledge, information and belief.

Harry Jensen

Sworn to and subscribed before me this 23rd day of March, 1965.

W. Layton Crist
Notary Public

W. LAYTON CRIST, Notary Public
Lancaster, Lancaster County, Pa.
My Commission Expires June 10, 1966

ARMSTRONG CORK COMPANY
FLOOR COVERING DESIGN PATENTS

FILED

APR 2 1965

HARRY M. HULL, Clerk

<u>Patent No.</u>	<u>Date Patented</u>	<u>Title</u>	<u>Inventor</u>
D-42,048	Dec. 26, 1911	Design for Linoleum or Oil-Cloth	Charles F. Humphreys
D-42,049	Dec. 26, 1911	Design for Linoleum or Oil-Cloth	Charles F. Humphreys
D-42,211	Feb. 27, 1912	Design for Linoleum or Oil-Cloth	Charles F. Humphreys
D-42,394	Apr. 9, 1912	Design for Oil-Cloth or Linoleum	Charles F. Humphreys
D-42,505	May 14, 1912	Design for Linoleum, Oil-Cloth, or Other Printed or Inlaid Floor- Covering	Charles F. Humphreys
D-42,506	May 14, 1912	Design for Linoleum, Oil-Cloth, or Other Printed or Inlaid Floor- Covering	Charles F. Humphreys
D-42,507	May 14, 1912	Design for Linoleum, Oil-Cloth, or Other Printed or Inlaid Floor- Covering	Charles F. Humphreys
D-42,508	May 14, 1912	Design for Linoleum, Oil-Cloth, or Other Printed or Inlaid Floor- Covering	Charles F. Humphreys
D-42,509	May 14, 1912	Design for Linoleum, Oil-Cloth, or Other Printed or Inlaid Floor- Covering	Charles F. Humphreys
D-42,510	May 14, 1912	Design for Linoleum, Oil-Cloth, or Other Printed or Inlaid Floor- Covering	Charles F. Humphreys
D-42,511	May 14, 1912	Design for Linoleum, Oil-Cloth, or Other Printed or Inlaid Floor- Covering	Charles F. Humphreys
D-42,512	May 14, 1912	Design for Linoleum, Oil-Cloth, or Other Printed or Inlaid Floor- Covering	Charles F. Humphreys
D-42,513	May 14, 1912	Design for Linoleum, Oil-Cloth or Other Printed or Inlaid Floor- Covering	Charles F. Humphreys
D-42,626	June 18, 1912	Linoleum, Oil-Cloth, or Floor- Covering	Charles F. Humphreys

<u>Patent No.</u>	<u>Date Patented</u>	<u>Title</u>	<u>Inventor</u>
D-42,627	June 18, 1912	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-43,220	Nov. 5, 1912	Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-43,221	Nov. 5, 1912	Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-43,308	Dec. 3, 1912	Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-43,930	Apr. 29, 1913	Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-43,931	Apr. 29, 1913	Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-43,932	Apr. 29, 1913	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-43,933	Apr. 29, 1913	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-43,934	Apr. 29, 1913	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-43,950	Apr. 29, 1913	Linoleum, Oil-Cloth, or Floor-Covering	Hadassah Wilde
D-43,951	Apr. 29, 1913	Linoleum, Oil-Cloth, or Floor-Covering	Hadassah Wilde
D-43,990	May 13, 1913	Linoleum, Oil-Cloth, or Floor-Covering	Andrew Wm. Drew
D-45,116	Jan. 6, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-45,117	Jan. 6, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-45,118	Jan. 6, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-45,119	Jan. 6, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-45,120	Jan. 6, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys

<u>Patent No.</u>	<u>Date Patented</u>	<u>Title</u>	<u>Inventor</u>
D-45,135	Jan. 6, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Hadassah Wilde
D-46,210	Aug. 4, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-46,211	Aug. 4, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-46,212	Aug. 4, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-46,213	Aug. 4, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-46,214	Aug. 4, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-46,215	Aug. 4, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-46,216	Aug. 4, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-46,217	Aug. 4, 1914	Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-47,328	May 11, 1915	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-47,329	May 11, 1915	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-47,330	May 11, 1915	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-47,331	May 11, 1915	Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-47,332	May 11, 1915	Design for Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-47,341	May 11, 1915	Design for Linoleum, Oil-Cloth, or Floor-Covering	Cornelia M. Post
D-47,345	May 11, 1915	Design for Linoleum, Oil-Cloth, or Floor-Covering	Martha H. Solms
D-47,346	May 11, 1915	Design for Linoleum, Oil-Cloth, or Floor-Covering	Martha H. Solms

<u>Patent No.</u>	<u>Date Patented</u>	<u>Title</u>	<u>Inventor</u>
D-49,018	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-49,020	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-49,021	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-49,022	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-49,023	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-49,024	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-49,025	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-49,026	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-49,027	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-49,028	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-49,029	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-49,030	May 9, 1916	Design for Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-50,780	May 15, 1917	Design for Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-50,781	May 15, 1917	Design for Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-50,782	May 15, 1917	Design for Linoleum, Oil-Cloth, or Floor-Covering	Harry Humphreys
D-50,783	May 15, 1917	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-50,784	May 15, 1917	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys

<u>Patent No.</u>	<u>Date Patented</u>	<u>Title</u>	<u>Inventor</u>
D-50,785	May 15, 1917	Design for Linoleum, Oil-Cloth, or Floor-Covering	Charles F. Humphreys
D-60,402	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,403	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,404	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,405	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,406	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,407	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,408	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,409	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,410	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,411	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,412	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Harry S. Humphreys
D-60,413	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Harry S. Humphreys
D-60,414	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Harry S. Humphreys
D-60,415	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Harry S. Humphreys
D-60,426	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Cornelia M. Post
D-60,427	Feb. 14, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Cornelia M. Post

<u>Patent No.</u>	<u>Date Patented</u>	<u>Title</u>	<u>Inventor</u>
D-60,678	Mar. 21, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,679	Mar. 21, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,680	Mar. 21, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Charles F. Humphreys
D-60,681	Mar. 21, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Harry S. Humphreys
D-60,682	Mar. 21, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Harry S. Humphreys
D-60,703	Mar. 21, 1922	Design for Linoleum, Oilcloth, or Floor Covering	Cornelia M. Post
D-68,209	Sept. 15, 1925	Design for Linoleum or Similar Floor Covering	Harry S. Humphreys
D-68,253	Sept. 22, 1925	Design for Linoleum or Similar Floor Covering	Charles F. Humphreys
D-68,254	Sept. 22, 1925	Design for Linoleum or Similar Floor Covering	Charles F. Humphreys
D-68,255	Sept. 22, 1925	Design for Linoleum or Similar Floor Covering	Harry S. Humphreys
D-68,702	Nov. 10, 1925	Design for Linoleum or Similar Article	Charles F. Humphreys
D-68,703	Nov. 10, 1925	Design for Linoleum or Similar Article	Charles F. Humphreys
D-68,704	Nov. 10, 1925	Design for Linoleum or Similar Floor Covering	Charles F. Humphreys
D-68,705	Nov. 10, 1925	Design for Linoleum or Similar Floor Covering	Charles F. Humphreys
D-68,706	Nov. 10, 1925	Design for Linoleum or Similar Floor Covering	Charles F. Humphreys
D-68,707	Nov. 10, 1925	Design for Linoleum or Similar Floor Covering	Charles F. Humphreys
D-68,708	Nov. 10, 1925	Design for Linoleum or Similar Floor Covering	Charles F. Humphreys

<u>Patent No.</u>	<u>Date Patented</u>	<u>Title</u>	<u>Inventor</u>
D-68,709	Nov. 10, 1925	Design for Linoleum or Similar Floor Covering	Charles F. Humphreys
D-68,710	Nov. 10, 1925	Design for Linoleum or Similar Floor Covering	Charles F. Humphreys
D-68,711	Nov. 10, 1925	Design for Linoleum or Similar Floor Covering	Charles F. Humphreys
D-68,712	Nov. 10, 1925	Design for Linoleum or Similar Floor Covering	Harry S. Humphreys
D-68,713	Nov. 10, 1925	Design for Linoleum or Similar Floor Covering	Harry S. Humphreys
D-69,135	Dec. 29, 1925	Design for a Rug	Harry S. Humphreys
D-69,136	Dec. 29, 1925	Design for a Rug	Charles F. Humphreys
D-70,676	July 27, 1926	Design for a Rug or Similar Article	Charles F. Humphreys
D-70,677	July 27, 1926	Design for a Rug or Similar Article	Charles F. Humphreys
D-70,678	July 27, 1926	Design for a Rug or Similar Article	Charles F. Humphreys
D-70,679	July 27, 1926	Design for a Rug or Similar Article	Charles F. Humphreys
D-70,680	July 27, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys
D-70,681	July 27, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys
D-70,682	July 27, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys
D-70,683	July 27, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys
D-70,684	July 27, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys
D-70,685	July 27, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys
D-70,686	July 27, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys

<u>Patent No.</u>	<u>Date Patented</u>	<u>Title</u>	<u>Inventor</u>
D-70,687	July 27, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys
D-71,674	Dec. 21, 1926	Design for a Rug or Similar Article	Charles F. Humphreys
D-71,675	Dec. 21, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys
D-71,676	Dec. 21, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys
D-71,677	Dec. 21, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Eric J. Humphreys
D-71,678	Dec. 21, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Harry S. Humphreys
D-71,679	Dec. 21, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Harry S. Humphreys
D-71,680	Dec. 21, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Harry S. Humphreys
D-71,697	Dec. 21, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Harry Strugnell
D-71,698	Dec. 21, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Harry Strugnell
D-71,699	Dec. 21, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Harry Strugnell
D-71,700	Dec. 21, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Harry Strugnell
D-71,701	Dec. 21, 1926	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Harry Strugnell
D-71,794	Jan. 4, 1927	Design for a Rug or Similar Article	Charles F. Humphreys
D-71,795	Jan. 4, 1927	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys
D-71,796	Jan. 4, 1927	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Charles F. Humphreys
D-71,902	Jan. 25, 1927	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Eric H. Chadwick

<u>Patent No.</u>	<u>Date Patented</u>	<u>Title</u>	<u>Inventor</u>
D-71,903	Jan. 25, 1927	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Eric H. Chadwick
D-71,904	Jan. 25, 1927	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Eric H. Chadwick
D-71,905	Jan. 25, 1927	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Eric H. Chadwick
D-71,974	Feb. 8, 1927	Design for a Rug or Similar Article	Harry S. Humphreys
D-71,975	Feb. 8, 1927	Design for a Rug or Similar Article	Charles F. Humphreys
D-72,051	Feb. 15, 1927	Design for a Rug or Similar Article	Harry S. Humphreys
D-72,052	Feb. 15, 1927	Design for a Rug or Similar Article	Harry S. Humphreys
D-72,097	Mar. 1, 1927	Design for a Rug or Similar Article	Harry S. Humphreys
D-72,098	Mar. 1, 1927	Design for a Rug or Similar Article	Harry S. Humphreys
D-76,395	Sept. 25, 1928	Design for Linoleum or Similar Hard-Surfaced Floor Covering	Eric J. Humphreys
D-109,186	Apr. 5, 1938	Design for Floor Covering	Henry J. Muller
D-111,186	Sept. 6, 1938	Design for a Rug or Similar Article	Henry J. Muller
D-111,684	Oct. 11, 1938	Design for a Rug or Similar Article	Henry J. Muller
D-111,686	Oct. 11, 1938	Design for a Rug or Similar Article	Fred W. Rauscher
D-111,815	Oct. 18, 1938	Design for Floor Covering	Henry J. Muller
D-192,676	Apr. 24, 1962	Hard Surface Floor Covering or Similar Article	John E. Davis

FILED

APR 2 1965

HARRY M. HULL, Clerk

Armstrong MONTINA[®] VINYL CORLON[®] FLOORING

U. S. PATENT NO. 3,056,224

with Hydrocord[®] Back

PATTERN
NUMBER

SHADE _____

REG.
NO. _____

SQUARE
YARDS _____

INSPECTOR **S. E. S.** _____

DIRECTIONS

ARMSTRONG MONTINA VINYL CORLON FLOORING is designed for both residential and commercial floor installations. Its Hydrocord back allows Montina to be installed over any normal concrete slab, except where excessive alkali or hydrostatic pressure is present.

VINYL CORLON FLOORING should be stored at a minimum temperature of 70° F. for at least 48 hours before installation. Interiors where it is to be installed should have a 70° F. minimum temperature 48 hours before, during and after installation; and thereafter a minimum temperature of 55° F.

DO NOT DROP OR
UNROLL WHILE COLD

MADE IN THE UNITED STATES OF AMERICA BY **Armstrong** LANCASTER, PA.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

APR 2 1965

HARRY M. HULL, Clerk

Armstrong Cork Company
Plaintiff,

v.

Abraham L. Kaminstein,
Register of Copyrights,
Library of Congress,
Defendant.

Civil Action No. 119-64

Stipulated Testimony of Paul Lester Herman

It is stipulated by and between counsel for the respective parties that, if Paul Lester Herman were called as a witness on behalf of plaintiff, he would testify as follows:

1. I am employed as Chief Inspector, Lancaster Floor Plant, Lancaster, Pennsylvania, by plaintiff and have held that position since December 31, 1952.

2. At the end of the inspection table, the "Montina" flooring passes under an ink roller which applies the notice referred to in the following paragraph.

3. Beginning with the first production of the "Montina" flooring and continuing to date, the "Montina" flooring has been marked "(C) Armstrong Cork Company" by placing such notice on the face of the flooring at about five-inch intervals along one marginal edge, as shown by the "Montina" flooring filed with plaintiff's Application for Copyright Registration.

Date: March 24, 1965

William L. Taylor
Attorney for Plaintiff

Date: April 2, 1965

Charles Park as U.S. atty

Date: April 2, 1965

William M. Fleming

Date: April 2, 1965

Gray C. Howe
Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

FILED

APR 2 1965

HARRY M. HULL, Clerk

Armstrong Cork Company,
Plaintiff,

v.

Abraham L. Kaminstein,
Register of Copyrights,
Library of Congress,
Defendant.

Civil Action No. 119-64

Stipulation

It is stipulated by and between counsel for the respective parties that:

1. Plaintiff, Armstrong Cork Company, is a corporation duly organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, having its principal place of business in Lancaster, Pennsylvania.
2. The Court has jurisdiction of this action under Title 28, United States Code § 1338(a) and 1400(a).
3. If it is found that there is a copyrightable work embodied in the "Montina" flooring, defendant will not contest the assertion that plaintiff is the proprietor of all right, title, and interest therein.
4. The seventeen pieces of "Montina" flooring identified by color pattern numbers 86,700 to 86,716, inclusive, delivered (two sets) by plaintiff's counsel to defendant's counsel, were cut from commercial rolls of "Montina" flooring manufactured and sold by plaintiff. Plaintiff shall have the right to offer in evidence, at the trial, these pieces of the "Montina" flooring without further proof.
5. Defendant will introduce at trial the two pieces of "Montina" flooring deposited with the Copyright Office and a certified copy of the

application for registration of a claim to copyright filed therewith.

Date: March 24, 1965

William L. Taylor
Attorney for Plaintiff

Date: April 2, 1965

E. Oliver Paul and W. L. Taylor

Date: April 2, 1965

William W. L. Loring

Date: April 2, 1965

George P. Moore
Attorneys for Defendant

FILED
APR 2 1965

HARRY M. HULL, Clerk

Application for registration of a claim to copyright filed therewith.

Date:

Attorney for Plaintiff

Date:

Date:

Date:

Applicant for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ARMSTRONG CORK COMPANY,
Plaintiff

v.

ABRAHAM L. KAMINSTEIN,
Register of Copyrights,
Library of Congress,

Defendant.

Civil Action 119-64

FILED
APR 2 1965

HARRY M. HULL, Clerk

MOTION TO REMOVE THIS CASE FROM THE
PROVISIONS OF LOCAL RULE 13

Now comes the plaintiff, through its attorney, and requests that this case be removed from the provisions of Local Rule 13 of the United States District Court, District of Columbia, to and including June 9, 1965.

The defendant filed interrogatories on about November 11, 1964. Filed with this motion are the answers to several of the interrogatories. As appears from "Plaintiff's Answers to Defendant's Interrogatories", certain of the interrogatories, by agreement of counsel, have not been answered. Draft Answers to these interrogatories have been submitted to defendant for review. In addition, attorneys for plaintiff and defendant have conferred in Washington, D. C. and in Lancaster, Pennsylvania in an effort to reach an agreed statement of facts which would reduce the number of issues to be tried. The stipulations filed herewith demonstrate the substantial results made to date. It is believed that these stipulations already

reduce the time necessary for trial. The attorneys for the plaintiff and defendant are also continuing in this effort and are in near agreement on other facts which will further reduce the time necessary for trial.

However, the factual situation which the attorneys are seeking to agree upon is such that they will be unable to do so by April 9, 1965. It is, accordingly, required and respectfully requested that the additional time to and including June 9, 1965 be allowed.

The defendant has no objection to this motion and is in agreement with the facts stated herein.

William A. Smith, Jr.
WILLIAM A. SMITH, JR.
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Two (2) copies of the foregoing plaintiff's motion for extending the time to file the certificate of readiness were served on Mr. David C. Acheson, attorney for defendant, by mailing the same to him postage prepaid at his address: 3600 District Court Building, Washington, D. C., 20001, this 2nd day of ^{April}~~March~~, 1965.

William A. Smith, Jr.
WILLIAM A. SMITH, JR.
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

FILED

APR 2 1965

HARRY M. HULL, Clerk

ARMSTRONG CORK COMPANY,

Plaintiff

v.

ABRAHAM L. KAMINSTEIN,
Register of Copyrights,
Library of Congress,

Defendant.

Civil Action 119-64

ORDER REMOVING CASE FROM LOCAL RULE 13

The plaintiff, on APRIL 2, 1965 has moved this court to remove the above-captioned case from Local Rule 13 of the United States District Court, for the District of Columbia, to and including June 9, 1965. The time for filing the certificate of readiness under Local Rule 13 is now set to expire on April 9, 1965.

The reasons for such request are:

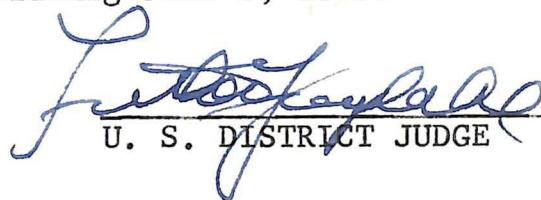
(1) The plaintiff, while answering a number of interrogatories filed by defendant, as evidenced by the answers to interrogatories filed on APRIL 2, 1965, will be unable to complete its answers to the other interrogatories by April 9, 1965 for the reasons stated in the Motion;

(2) The parties, while in agreement on a number of facts in this case, as evidenced by the stipulations filed on APRIL 2, 1965, and in near agreement on other facts, will be unable to reach agreement as to these other facts by April 9, 1965; and

(3) The requested extension of time will afford the parties an opportunity to complete their joint undertaking; the results of which should considerably shorten the time of trial.


The defendant has no objection to plaintiff's motion and is in agreement with the facts stated therein.

Ordered, this case be removed from Local Rule 13 from April 9, 1965 to and including June 9, 1965.


U. S. DISTRICT JUDGE

Dated *april 2* , 1965.

CONSENT


ATTORNEY FOR DEFENDANT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ARMSTRONG CORK COMPANY

Plaintiff

v.

ABRAHAM L. KAMINSTEIN
Register of Copyrights,
Library of Congress

Defendant

Civil Action No. 119-64

FILED

MAY 25 1965

HARRY M. HULL, Clerk

STIPULATION OF DISMISSAL UNDER RULE 41(a)(1)(ii)

It is stipulated by and between Counsel for the parties to the above-entitled action that the Complaint herein be dismissed with prejudice, without costs to either party.

Date:

May 25, 1965

William A. Smith, Jr.
William A. Smith, Jr.

Date:

May 20, 1965

Dexter N. Shaw
Dexter N. Shaw
Attorneys for Plaintiff

Date:

May 21, 1965

David C. Ackerson
United States Attorney per *elk*

Date:

May 20, 1965

William W. Fleming
William W. Fleming

Date:

May 20, 1965

John E. Kidd
John E. Kidd
Attorneys for Defendant

On behalf of the Armstrong Cork Company and as Secretary of the Armstrong Cork Company, the undersigned is authorized by Harry A. Jensen, Vice President and General Manager of Floor and Consumer Products Operations of the Armstrong Cork Company, in his absence to and does consent to the foregoing dismissal with prejudice.

Date: May 20, 1965

Albert H. Sheaffer
Albert H. Sheaffer
Secretary

So Ordered

Date: May 25-1965

Lester W. Campbell
U.S.D.J.